

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY**  
**V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Saint Paul District

**FILE NUMBER:** 2004157142

**REGULATORY PROJECT MANAGER:** Rebecca Gruber **Date:** Sept. 23, 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office (Y/N)** Y **Date:** 9/23/04

**At the project site (Y/N)** N **Date:**

**PROJECT LOCATION INFORMATION:**

State: Wisconsin

County: Milwaukee County

Center coordinates of site by latitude & longitude coordinates: 42.8809°N, 87.9152°W (NAD 27)

Approximate size of site/property (including uplands) in acres 4.34 acres

Name or waterway of watershed:

Type of Aquatic Resource <sup>1</sup> :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	(0.189 ac)								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup>	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:**                      **Preliminary X    Or   Approved**

**ADDITIONAL INFORMATION SUPPORTING NJD** (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

**Two wetlands (W-1 & W-2) have been delineated on the subject property. W-1 is an isolated pothole dominated by reed canary grass and narrow-leaved cattail; W-2 is a forested wetland extending north off the property, and contains a tributary to Oak Creek. Wetland W-1 is the subject of this narrative.**

**Wetland W-1 lies entirely within the NE ¼ of Section 20, T. 5N., R. 22E., Milwaukee County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin. In addition, wetland W-1 does not display any connection to, nor is it considered adjacent to, any “waters of the U.S.” Wetland W-2 (a water of the U.S.) lies to the northeast of this basin, but is naturally separated from W-1 by an expanse of upland area. For these reasons, W-1 is considered an intrastate, isolated wetland.**

**Wetland W-1 is not, nor is it likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetland lies on private property, with no public access. Lastly, the wetland does not contain fish or shellfish which could be taken and sold. For these reasons, no interstate commerce nexus to this wetland has been established.**

**As indicated above, wetland W-2 is considered a water of the U.S., and is located along the northern boundary of the site. Wetland W-2 contains a tributary to Oak Creek. Oak Creek is part of the tributary system to Lake Michigan, a navigable water of the United States.**